

CHAPTER 149: HOUSING CODE

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§149.01 FINDING: PURPOSE

(A) Pursuant to G.S. 160A-441, it is hereby found and declared that there exist in the Town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health and otherwise inimical to the welfare of the residents of the Town.

(B) In order to protect the health, safety and welfare of the residents of the Town as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes of N.C., it is the purpose of this ordinance to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. 160A-444.

§149.02 DEFINITIONS

The following definitions shall apply in the interpretation and administration of this ordinance:

(A) **Basement** shall mean a portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

(B) **Cellar** shall mean a portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

(C) **Deteriorated** shall mean that a dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this ordinance, at a cost not in excess of fifty percent (50%) of its value, as determined by finding of the Inspector.

(D) **Dilapidated** shall mean that a dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this ordinance at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

(E) **Dwelling** shall mean any building which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as hereinafter defined shall not be regarded as a dwelling.

(F) **Dwelling unit** shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

(G) **Extermination** shall mean the control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Inspector.

(H) **Garbage** shall mean the animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

(I) **Habitable room** shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

(J) **Infestation** shall mean the presence, within or around a dwelling of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

(K) **Inspector** shall mean the Director of the Mecklenburg County Engineering & Building Standards Department or his designee.

(L) **Multiple dwelling** shall mean any dwelling containing more than two dwelling units.

(M) **Occupant** shall mean any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

(N) **Operator** shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

(O) **Owner** shall mean any person who alone or jointly, or severally with others:

(1) shall have fee simple title to any dwelling or dwelling unit, and every mortgagee, and owner and holder of a deed of trust and the trustee therein, of record; with or without accompanying actual possession of said dwelling or dwelling unit; or

(2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this ordinance, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

(P) **Parties in Interest** means all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

(Q) **Plumbing** shall mean and include all of the following supplied facilities and equipment: Gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

(R) **Public Authority**, shall mean the governing body of the Town or any officer who is in charge of any department or branch of the government of the Town or of Mecklenburg County or the State of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the Town.

(S) **Rooming unit** shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(T) **Rooming house** shall mean any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

(U) **Rubbish** shall mean combustible and noncombustible waste materials, except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

(V) **Supplied** shall mean paid for, furnished, or provided by, or under the control of, the owner or operator.

(W) **Temporary housing** shall mean any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty consecutive days.

(X) **Town** shall mean the Town of Matthews, located in Mecklenburg County, North Carolina.

(Y) **Unfit for human habitation** shall mean that conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this ordinance.

(Z) **Meaning of certain words.** Whenever words "dwelling, dwelling unit, rooming house, rooming unit, premises" are used in this ordinance, they shall be construed as though they were followed by the words "or any part thereof."

§149.03 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 4, 5, 6, 7, 8 and 9 of this ordinance. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of Sections 4, 5, 6, 7, 8 and 9 of this ordinance.

§149.04 MINIMUM STANDARDS FOR STRUCTURAL CONDITION.

(A) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not excessively list, lean or buckle and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks

which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged so as to dangerously reduce their intended load bearing characteristics.

(D) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

(H) There shall be no chimneys or parts thereof which are in danger of falling, or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors, or wood floors on the ground.

§149.05 MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES.

(A) Plumbing System.

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to an approved potable water supply.

(3) All plumbing fixtures shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) Heating System. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either (1) or (2) below.

(1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured at a point three feet (3') above the floor and two feet (2') from exterior walls during ordinary winter conditions (Ord.1308, passed 8-25-03)

(2) Other Heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 68 degrees Fahrenheit measured three feet (3') above the floor and two feet (2') from exterior walls during ordinary winter conditions. (Ord.1308, passed 8-25-03)

(C) Electrical System.

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the National Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling, or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, without hazard to property or person.

§149.06 MINIMUM STANDARDS FOR VENTILATION.

(A) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors for adequate ventilation. At least one window in every habitable room shall be of such size and location to allow

egress by an average adult in the event of fire or other emergency.

(B) Habitable rooms. Every habitable room shall have at least one (1) window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least forty-five percent (45%) of the minimum window area size or minimum skylight type window size as required, or shall have other approved, equivalent ventilation.

(C) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.

§149.07 MINIMUM STANDARDS FOR SPACE, USE, AND LOCATION.

(A) Room sizes. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the current version of the NC State Building Code or the building code in effect at the time of the construction, whichever is less restrictive.

Every dwelling unit shall contain at least one hundred and fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant.

In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over any at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age. (Ord.1308, passed 8-25-03)

(B) Ceiling Height. At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of not less than seven feet (7'). (Ord.1308, passed 8-25-03)

(C) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than ten percent (10%) of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet (4'6") shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible

occupancy.

(D) Cellar. No cellar shall be used for living purposes.

(E) Basements. No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight;

(2) The total window standards, total openable window area, and ceiling height are equal to those required for habitable rooms;

(3) The required minimum window standards of every habitable room are entirely above the grade adjoining such, window area, except where the window or windows face a stairwell, window well, or access way.

§149.08 MINIMUM STANDARDS FOR SAFE AND SANITARY MAINTENANCE.

(A) Exterior foundation, walls, and roofs. Every foundation wall, exterior wall, and exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) Interior floors, walls, and ceilings. Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) Windows and doors. Every window, exterior door, basement or cellar door, and hatchway shall be substantially weathertight, watertight, and rodent proof; and shall be kept in sound working condition and good repair.

(D) Stairs, porches, and appurtenances. Every outside and inside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(E) Bathroom floors. Toilet, bath and shower spaces. Bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with a nonabsorbent surface. Such nonabsorbent surfaces must extend at least six feet (6') above the floor. Every bathroom floor surface and water closet compartment floor surface shall be constructed and

maintained so as to permit such floor to be easily kept in a clean and sanitary condition. (Ord.1308, passed 8-25-03)

(F) Supplied facilities. Every supplied facility, piece of equipment, or utility which is required under this ordinance shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(G) Drainage. Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(H) Noxious Weeds. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(I) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the current version of the NC State Residential Building Code or the building code in effect at the time of construction, whichever is less restrictive. All interior egress doors and a minimum of one exterior egress door shall be readily openable from the side from which egress is to be made without the use of a key or special knowledge or effort. (Ord.1308, passed 8-25-03)

(J) Smoke alarms. Every dwelling and dwelling unit shall have smoke alarms installed and maintained according to the NC State Residential Building Code. (Ord. 1308, passed 8-25-03)

(K) Carbon monoxide alarms. Every dwelling and dwelling unit shall have carbon monoxide alarms installed and maintained according to the Mecklenburg County Carbon Monoxide Alarm Ordinance. (Ord.1308, passed 8-25-03)

§149.09 MINIMUM STANDARDS FOR CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) Rodent control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(B) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling

units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(C) Rubbish Storage and Disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by Town ordinances or any Health Department regulations, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(D) Garbage Storage and Disposal. Every dwelling and every dwelling unit shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage can as required by county ordinances.

§149.10 MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS.

All of the provisions of this ordinance, and all of the minimum standards and requirements of this ordinance, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following subsections:

(A) Water closet, hand lavatory, and bath facilities. At least one (1) water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four (4) rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one (1) story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar or uninhabitable basement.

(B) Minimum Floor Area for Sleeping Purposes. Every room occupied for sleeping purposes by one (1) occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one (1) occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

(C) Sanitary Conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming

house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

(D) Sanitary Facilities. Every water closet, flush urinal, lavatory basin, and bathtub or shower required by subsection (a) of this Section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

§149.11 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) Public areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he occupies and controls.

(C) Rubbish and Garbage. Every occupant of a dwelling or dwelling unit shall dispose of all his rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) Supplied Plumbing Fixtures. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) Care of Facilities, Equipment and Structure. No occupant shall willfully destroy, deface, or impair any of the facilities or equipment, or any part of the structure of a dwelling or dwelling unit.

§149.12 DUTIES OF BUILDING INSPECTOR.

The Director of the Engineering and Mecklenburg County department that enforces the NC State Residential Building Code, or his or her designee, is hereby designated as the officer to enforce the provisions of this ordinance and to exercise the duties and powers herein prescribed. It shall be the duty of this officer or his designee agents:

(a) to investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the Town, in order to determine which dwellings and dwelling units are

unfit for human habitation, and for the purpose of carrying out the objectives of this ordinance with respect to such dwellings or dwelling units;

(b) to take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(c) to keep a record of the results of inspections made under this ordinance and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and

(d) to perform such other duties as may be herein prescribed.

(Ord.1308, passed 8-25-03)

§149.13 POWERS OF INSPECTOR.

The Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this ordinance, including the following powers in addition to other herein granted:

(A) To continually investigate the dwelling conditions in the Town in order to determine which dwellings therein are unfit for human habitation;

(B) to administer oaths and affirmations, examine witnesses and receive evidence;

(C) to enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and

(D) to appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this ordinance.

§149.14 INSPECTIONS; DUTY OF OWNERS AND OCCUPANTS.

For the purpose of making inspections, the Inspector is hereby authorized to enter, examine, and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the inspector free access to such dwelling, dwelling unit, or rooming unit, and its premises at all reasonable times and with one week notice for the purposes of such inspection, examination and survey.

Every occupant of a dwelling or dwelling unit shall

give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this ordinance or with any lawful order issued pursuant to the provisions of this ordinance.

§149.15 ADMINISTRATIVE PROCEDURE.

(A) *Preliminary Investigation; Notice; Hearing.*

Whenever a petition is filed with the Inspector by a Public Authority or by at least five (5) residents of the Town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges and containing a notice that a hearing will be held before the Inspector at a place therein fixed, not less than ten (10) days nor more than thirty (30) days after the serving of said complaint. The owner and any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) *Procedure After Hearing.* After such notice and hearing, the Inspector shall state in writing his determination whether such dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated.

If the Inspector determines that the dwelling or dwelling unit is deteriorated, he shall state in writing his findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this ordinance within a reasonable specified period of time. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made. Upon completion of required improvements, a new certificate of occupancy must be issued prior to subsequent leasing or sale of dwelling to a third party. Hardship cases may be handled by the inspector, recommending time or minimum requirement waivers to the Town's Zoning Board of Adjustment, which body shall act on such recommendation.

If the Inspector determines that the dwelling is

dilapidated, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this ordinance, or else vacate and remove or demolish the same within a reasonable specified period of time.

(C) *Failure to Comply with Order.*

(1) In Personam Remedy. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the inspector to repair, alter, or improve the same within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Inspector to vacate and close, and remove or demolish the same within the time specified therein, the Inspector shall submit to the governing body of the Town at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. 160A-446(g).

(2) In Rem Remedy. After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding paragraph (1), the Inspector shall submit to the governing body an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the Inspector, and pending such removal or demolition, to placard such dwelling as provided by G.S. 160A-443 and Section 17 of this ordinance.

(D) *Appeals from Orders of Inspector.* An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days (10) from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Town's Zoning Board of Adjustment, hereinafter referred to as "Board", a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the paper constituting the record upon which the decision appealed from was made. When appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his

requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one days written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G. S. 160A-446(f) and subsection (e) of this Section.

The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or modify the decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have the powers of the Inspector, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(E) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise, as provided in G.S. 160A-446(e). In addition, any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall also have the right, within thirty (30) days after issuance of the order or rendering of the decision, to petition the superior court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. 160A-446(f).

§149.16 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail. If the whereabouts of such persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, and the Inspector makes an affidavit to that effect, then the serving of the complaint or order upon such persons may be made by publishing the same once each week for two successive weeks in a newspaper of general circulation in the county, the second publication being not less than ten (10) days nor more than thirty (30) days prior to the date of the hearing.

§149.17 IN REM ACTION BY INSPECTOR; PLACARDING.

After failure of an owner of a dwelling or dwelling

unit to comply with an order of the Inspector issued pursuant to the provisions of this ordinance, and upon adoption by the governing body of the Town of an ordinance authorizing and directing him to do so, as provided by G. S. 160A-443 (4) and (5) and Section 15(c) of this ordinance, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this ordinance, or to be vacated and closed and removed or demolished, as directed by the ordinance of the governing body and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

Each such ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located, and shall be indexed in the name of the property owner in the grantor index, as provided by G. S. 160A-443(5).

§149.18 COSTS, A LIEN ON PREMISES.

As provided by G.S. 160A-443(6), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the inspector pursuant to Section 17 of this ordinance shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority and be enforced and the costs collected as the lien for special assessments provided by Article 10, Chapter 160A of the General Statutes.

§149.19 ALTERNATIVE REMEDIES.

Neither this ordinance nor any of its provisions shall be construed to impair or limit in any way the power of the Town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this ordinance by criminal process as authorized by G. S. 14-4 and Section 21 of this ordinance, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

§149.20 ZONING BOARD OF ADJUSTMENT.

The Town's Zoning Board of Adjustment shall perform the duties prescribed by Section 15(D) and shall keep an accurate record of all its proceedings.

§149.21 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard, or requirement of this ordinance is found to be in conflict with any provision of any other ordinance or code of the Town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Town shall prevail.

This code shall become effective upon approval by the governing body of the Town. (Ord. No. 1121, passed 6-26-00)

§149.22 VIOLATIONS; PENALTY.

It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to Section 15 of this ordinance, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

The violation of any provision of this ordinance shall constitute a misdemeanor, as provided by G. S. 14-4.

In addition to the remedy specified in this and in other sections of this ordinance, the provisions of this ordinance may also be enforced by the Town by injunction and order or abatement or by any other equitable remedy issuing from a court of competent jurisdiction, as specified in G.S. 153A-123(d) and (e).

§149.23 SEVERABILITY.

If any provision of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, independent provision and such holding shall not affect the validity of any other provision hereof, and to that end, the provision of this ordinance are hereby declared to be severable.

§149.24 JURISDICTION.

This ordinance shall be effective within the corporate limits of the Town and throughout its extraterritorial jurisdiction area.

§149.25 IMPLEMENTATION.